

## **REMARKS**

### **I. Interview Summary**

The Applicant thanks the Examiner for the telephonic interview on October 8, 2008 ("the Interview") with the Applicant's representative Adam Faier. The Applicant appreciates the Examiner's time in discussing the present application, pending claims, current rejections, and the cited references. In particular, an overview of the claimed invention was discussed along with certain potential amendments to the claims with respect to the various pending rejections.

### **II. Interview Request**

Per the Examiner's suggestion, the Applicant hereby expressly requests an interview with the Examiner in advance of preparation of an Office Action in reply to the present Response. The Applicant's representative Adam Faier may be reached at 312-698-6003.

### **III. Related Applications**

The Applicant understands that the Examiner reviews the claims and prosecution history of related applications as they contain common subject matter. To this end, the Applicant reminds the Examiner that the present application is related through a common claim of priority to U.S. Patent Application Serial No. 10/260,644 which is pending and is before a different Examiner.

In addition, for the purposes of the present application, the Applicant hereby rescinds any disclaimer of claim scope that may have been (or may be) made during the prosecution of any related application. The Applicant respectfully requests examination of the instant claims according to the claim language in light of the prior art without importing statements made by the Applicant in the prosecution of any related application.

### **IV. Summary of the Office Action**

The Office Action mailed July 9, 2008 ("the Office Action") made the following objections and/or rejections, each of which is addressed in more detail below:

Claim 22 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Claims 2, 18, and 22 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

Claims 17-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0004853 (“Ram”) in view of U.S. Patent No. 6,625,583 (“Silverman”) and further in view of U.S. Patent No. 7,103,556 (“Del Rey”).

Claims 1-11, 15-16, and 22-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ram in view of Silverman and further in view of Del Rey and further in view of U.S. Patent Application Publication No. 2002/0091679 (“Wright”).

#### V. Status of the Claims

The present application includes claims 1-11 and 15-26. By this Response, claims 1-2, 8, 15, 17-18, and 22 have been amended. Support for these amendments can be found throughout the application, and therefore no new matter is added in this response.

#### VI. Claim Rejections – 35 U.S.C. 112, Second Paragraph

The Applicant now turns to the rejection of claim 22 under 35 U.S.C. 112, second paragraph, as being indefinite. More particularly, the Office Action stated at page 5 that claim 22 recites the limitation “the client terminal” and that there is insufficient antecedent basis for this limitation. In addition, the Office Action indicated that it was not clear whether the claim is directed to a system or a client terminal.

The Applicant has amended claim 22 to remove the recitation of a “client terminal” from the preamble and clarify that the claim is directed to a “system.” Consequently, the Applicant respectfully requests reconsideration and withdrawal of this rejection.

#### VII. Claim Rejections – 35 U.S.C. 101

The Applicant next turns to the rejection of claims 2, 18, and 22 under 35 U.S.C. 101 as being directed to non-statutory subject matter. More particularly, with respect to claims 2 and 18, the Office Action stated at page 6 that these claims were directed to a computer readable medium, but that “it is not clear what instructions are recited in the preamble of the claim, *i.e.*,

instructions could be software.” The Office Action further stated that software has no structure and that software alone is *per se* non-statutory subject matter.

The Applicant respectfully disagrees. In particular, the Applicant disagrees that the preamble is not clear and the Applicant respectfully submits that if the instructions are software claims 2 and 18 are still directed towards patentable subject matter. The Applicant draws the Examiner’s attention to MPEP 2106.01, which states that “data structures and computer programs which impart functionality when employed as a computer component” are “functional description materials.” MPEP 2106.01 further states that “[w]hen functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” Therefore, the Applicant believes that claims 2 and 18 clearly recite statutory subject matter and that this rejection should be withdrawn.

However, in the interest of expediting prosecution, the Applicant has amended claims 2 and 18 as suggested by the Examiner during the Interview to further recite that the instructions are “computer executable instructions.” Consequently, the Applicant respectfully requests this rejection to be reconsidered and withdrawn, but the Applicant does not believe these amendments result in any change in scope or equivalents.

With respect to claim 22, the Office Action stated at page 6 that while claim 22 is directed to a system, there is no hardware in the body of the claim, but only software.

While the Applicant respectfully disagrees that claim 22 is directed to non-statutory subject matter, in the interest of expediting prosecution, the Applicant has amended claim 22 to further recite that the trading application and the annotation application are on a client terminal. Consequently, the Applicant respectfully requests this rejection to be reconsidered and withdrawn, but the Applicant does not believe these amendments result in any change in scope or equivalents.

### VIII. Claim Rejections – 35 U.S.C. 103

The Applicant next turns to the rejection of claims 17-21 under 35 U.S.C. 103(a) as being unpatentable over Ram in view of Silverman and further in view of Del Rey. The Applicant respectfully submits that none of Ram, Silverman, and Del Rey, alone or in combination, teaches

or suggests the entirety of the limitations recited in the pending claims for at least the reasons discussed below.

Ram, Silverman, and Del Rey have been discussed in prior Responses, and that discussion will not be repeated here for brevity.

The Office Action stated at page 8 that “Ram does not show displaying the annotation in relation to the at least one location corresponding to the at least one price level along the price axis in the market information display region associated with the first tradeable object.” The Applicant agrees. The Applicant further notes that Ram does not teach or suggest displaying an annotation at one or more locations corresponding to one or more price levels along a price axis.

The Office Action then stated that Silverman shows this in Figure 5A. The Applicant respectfully disagrees. Figure 5A of Silverman, as discussed at col. 6, line 28, shows a buy order transaction page 500 that may be used by a broker when a trade has been executed. The buy order transaction page 500 may include a digital ink area 507 where the broker can add additional notes about the order. The digital ink area 507 allows for free-form entry of data by capture of an image of stylus strokes over the area 507.

However, Silverman does not teach or suggest displaying an annotation at one or more locations corresponding to one or more price levels along a price axis. Figure 5A of Silverman does not include a price axis, nor does it display an annotation associated with a tradeable object. Rather, Silverman discusses a free-form data entry region allowing a note to be associated with an executed order. Consequently, Silverman does not cure the deficiencies of Ram, discussed above.

The Applicant respectfully submits that Del Rey also does not cure the deficiencies of Ram and Silverman, discussed above.

Accordingly, without conceding the propriety of the asserted combination, the Applicant respectfully submits that, even in view of the knowledge of one of ordinary skill in the art, none of Ram, Silverman, and Del Rey, alone or in combination, teaches or suggests the entirety of the limitations recited in the pending claims.

Independent claim 17 has been amended to clarify the display of the annotation and now recites “displaying an annotation associated with the event, wherein the annotation is displayed in the at least one location along the price axis corresponding to the at least one price level on the market information display region associated with the first tradeable object.” Independent claim

18 recites similar limitations. Therefore, the Applicant respectfully submits that independent claims 17-18 should be allowable over the cited art of record for at least the reasons discussed above.

With respect to claims 19-21, these claims depend from independent claim 17. The Applicant respectfully submits that at least because claim 17 should be allowed for the reasons discussed above, claims 19-21 should also be allowed.

The Applicant now turns to the rejection of claims 1-11, 15-16, and 22-26 under 35 U.S.C. 103(a) as being unpatentable over Ram in view of Silverman and further in view of Del Rey and further in view of Wright.

Wright has been discussed in a previous Response and that discussion will not be repeated here for brevity. The Applicant respectfully submits that Wright fails to cure the deficiencies of Ram, Silverman, and Del Rey discussed above.

Accordingly, without conceding the propriety of the asserted combination, the Applicant respectfully submits that, even in view of the knowledge of one of ordinary skill in the art, none of Ram, Silverman, Del Rey, and Wright, alone or in combination, teaches or suggests the entirety of the limitations recited in the pending claims

Independent claims 1-2 and 22, have been amended in a manner similar to independent claims 17 and 18, discussed above. Dependent claims 8 and 15 have been amended to conform to the amendments to independent claim 1, from which they depend. Consequently, the Applicant respectfully submits that independent claims 1-2 and 22 should be allowed for at least the reasons discussed above with respect to independent claims 17 and 18.

With respect to claims 3-11, 15-16, and 21-26, these claims depend from independent claims 1 and 22. The Applicant respectfully submits that at least because claims 1 and 22 should be allowed for the reasons discussed above, claims 3-11, 15-16, and 21-26 should also be allowed.

## IX. Conclusion

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to

challenge such statements in the future should the need arise (for example, if such statements should become relevant by appearing in a rejection of any current or future claim).

All the stated grounds of objection and rejection have been respectfully traversed, accommodated, or rendered moot. The Applicant therefore submits that the present application is in condition for allowance. If the Examiner believes that further dialog would expedite consideration of the application, the Examiner is invited to contact Trading Technologies in-house Patent Counsel Adam Faier at 312-698-6003, or the undersigned attorney or agent.

Respectfully submitted,  
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